

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA
upon the relation and for the use of the
TENNESSEE VALLEY AUTHORITY,
Plaintiff,

v.

No. 3:21-cv-00249

0.005 ACRE OF LAND, MORE OR LESS,
AND CEMETERY, BURIAL AND
ACCESS RIGHTS WITH RESPECT
TO SIX TRACTS OF LAND
IN SUMNER COUNTY,
TENNESSEE, and
DORIS DOTTIE McCRARY,
JIM McCRARY,
NICK McCRARY,
BONNIE SUE McCRARY,
KRIS McCRARY,
TERRI ROSE McCRARY,
BRUCE KITTINGGER,
LAUREN McCRARY,
JAY STREB,
JAMIE STREB,
ETHAN LINDQUIST,
JAMES W. JUSTICE,
CAROLYN McCRARY,
PAM EVETTS,
MARK JUDKINS,
DEBORAH HEINS,
STEVEN STREB,
HEATHER McDANIEL,
JULIA D. JUSTICE,
HELEN McCRARY,
SHARON HANVY,
PERRY JUDKINS,
THOMAS HEINS,
TRISHA LINDQUIST,
ROBERT McDANIEL,
RON BARRETT,
HULAND IVY,
BRUCE JUDKINS,
RANDY JUDKINS,

KIMBERLY KROLICK,
JORDAN KROLICK,
CHRISTINE WELKER,
EMMA WELKER-MORRIS,
WANDA WELKER-TOMLIN,
HOLLY KAZELESKI,
MICHAEL BALDWIN,
CRYSTAL WELKER,
KAREN TANNER,
RONNIE McCRARY,
NICHOLAS DINOCOLA,
JESSIE WELKER,
RICKY WELKER,
JOSEPH H. WELKER,
ESTELLE E. McCRARY,
DEBBIE COLLIER McCRARY,
SHERRY McCRARY,
JULIE DINOCOLA,
BONNIE WELKER-CRADDOCK,
RONNIE WELKER,
ANGELA WELKER,
NORMAN TANNER,
JACKIE L. McCRARY,
LARRY McCRARY,
CHERYL JOHNSON,
BILLY ALLEN,
JUDY CAROL MORRIS,
BRENDA McCRARY,
RANDY McCRARY,
JOSHUA McCRARY,
BETTY LEWIS,
GUY McCRARY,
JOE WALKER McCRARY, JR.,
DAVID MORRIS,
SHIRELY ANN ESTES,
SANDY McCRARY,
AXL RHETT McCRARY,
THOMAS McCRARY,
PATRICIA McCRARY,
DONNA McCRARY,
MICHAEL D. McCRARY,
CYNTHIA McCRARY,
JACK McCRARY,
BO BRENTLEE SWARNER,
ROBERT McCRARY NO. 1,
ROBERT McCRARY NO. 2,
THOMAS BOND,
MARTHA BOGLE,

LORI BRYANT,
FRED POUNDERS,
CHARLES SPURLOCK,
MARY FOX,
MARIE McCRARY,
JULIE BOND,
TERESA McCRARY,
MICHAEL HARRISON,
STELLA DODSON,
KENNETH SPURLOCK,
BARBARA McCRARY,
WILMA McCRARY,
RACHEL McCRARY,
BRUCE BRYANT,
DEBBIE McCRARY,
CAROLYN JUNE HOPKINS,
LARRY SPURLOCK,
MITCH KNALL,
THELMA McCRARY,
MELISSA McCRARY,
AMELIA McCRARY,
HARLEY McCRARY,
TUCKER McCRARY,
JEANIE McCRARY,
MARK McCRARY,
NANCY McCRARY,
HARRY McCRARY,
DAKOTA McCRARY,
COLIN McCRARY,
VERA McCRARY,
CHARLES NOLEN,
KATHY LYNN EATON,
EDDIE McCRARY,
PAIGE McCRARY,
KAYSE McCRARY,
EDEN McCRARY,
DEBBIE GARTON,
YVONNE CUMMINGS McCRARY,
RACHEL McCRARY BROWN,
MIKE BROWN,
SANDY McCRARY,
MATT McCRARY,
LUKAS McCRARY,
LINDA DEESE,
JENNY McCRARY,
MONROVIA McCRARY,
ELIZABETH BROWN,
JASON McCRARY,

ALLISON McCRARY,
TYLER McCRARY,
COLORADO McCRARY,
DAVID McCRARY,
WILLIAM H. McCRARY, JR.,
CLAIRE BROWN,
AMANDA McCRARY,
ELLIOT McCRARY,
VIRGINIA EASTER-GOENS,
DAN McCRARY,
DAPHANIE McCRARY,
ANNE McCRARY,
NANCY DOVE,
JEAN "IMOGENE" CAGE,
JERRY BLUNKALL,
JEAN W. BLUNKALL,
PEGGY BRIMM,
BUD CAGE,
DEBBIE DERRYBERRY,
JAMES BRIMM,
ROBERT ELLIS McCRARY,
MARIE BROWN,
HARVAE HEROD,
HORACE HEROD,
HATTIE B. WINCHESTER,
HENRY WINCHESTER,
LINDA SANDERS,
JAMES WINCHESTER,
ROSE HUDSON (HUTSON),
MONNIE LEWIS SCOTT,
AURELIA ECTON,
MICHAEL ECTON,
BETTY WINCHESTER,
GEORGIA WINCHESTER,
ANNETTA M. WINCHESTER,
GWENDOLYN HUDSON (HUTSON),
STEVE HUDSON (HUTSON),
KEITH ECTON,
PATRICIA ECTON,
SILVER SANDERS,
RANDY TURNER,
CHARLESETTA PATTON,
JOYCE SCOTT,
DONAL HUDSON (HUTSON),
DAWN ECTON,
MICHAEL ECTON, JR.,
PERRY ECTON,
JEREMIAH ECTON,

HAILEY ECTON,
DAVID BROWN, SR.,
ELIJAH BROWN,
SHAUNTA BROWN,
CARLOS RAMOS,
ALLISON ECTON,
PATRICK ECTON,
MIKAVEON ECTON,
RAYDELL BROWN,
TIMOTHY BROWN,
ALLISON BROWN,
AJA RAMOS,
CATHERINE ECTON,
PETER ECTON,
BARBARA BROWN,
DAVID BROWN, JR.,
KATHY BROWN,
VALENCIA BROWN RAMOS,
JOSHUA RAMOS,
BONNIE JENKINS,
CONNIE JENKINS,
VICTOR JENKINS,
FRANCIS ODOM,
EFFIE ODOM,
WALTER LEE ODOM,
WILLIAM T. REECE,
HENRY H. JENKINS,
ERIC JENKINS,
PATRICIA ODOM,
MATTIE ODOM,
TONY HANCOCK,
DARLENE WADE,
NEALE WADE, JR.,
SHARMAYNE JENKINS,
REGINALD JENKINS,
MARY ODOM,
JAMES ODOM,
MELVIN ALLEN ODOM,
LINDA WADE,
ROCKY WADE,
ALLEN HORTON,
TIERRA HORTON,
ANDRE ODOM,
STEPHANIE BUSH WEBB,
MARTHA SANDERS,
TENNIE E. FIGGINS,
FRANK D. FIGGINS, JR.,
LISA HORTON,

JAMES E. ODOM,
CAROLYN BUSH,
WILLIE BUSH,
JAMES SANDERS,
ROWENA L. FLOYD,
BETTIE FIGGINS PLEASANT,
KAREN FIGGINS,
ANDREW HORTON,
THELMA ODOM,
TANYA BUSH,
JAMES SANDERS, JR.,
HATTIE MARIE FIGGINS,
EDDIE FIGGINS,
GROMYKO WEIR,
GROMYKO MARTIN WEIR,
CATHERINE FIGGINS,
APIRL DENISE DOWDY,
LARRY D. PARKER,
TERONDA S. HENDERSON,
WANDA J. PARKER,
CATERINA KAY LAWSON DILLAR,
MALCOM WEIR,
CHARLES E. PARKER, JR.,
WANDA PARKER,
RITA ROCHELLE PARKER,
JULIAN ANTUAN HENDERSON,
CHARLENE HUMPHREY LAWSON,
DARRELL ALLAN HOLMES,
MONTEL WEIR,
BRENDA PARKER JONES,
GWINNETT JONES,
CHARLESETTA L. PARKER BOWERS,
MORRIS BOLINE,
TRISTAN C. JONES,
LAQUINNIA LAWSON,
DEBORAH ANN WOODARD,
JACQUELINE D. WOODARD,
RALPH ANDERSON, JR.,
SHAWN L. SUTTON,
RANDIE KAY ANDERSON,
BRENDA DEAN ANDERSON,
DON WAYNE ANDERSON,
SHADONNA KAI ANDERSON,
EDWARD J. ANDERSON,
TOSHIBA M. ANDERSON,
TRAVIS RANDALL ANDERSON,
ANDREW N. JACKSON, JR.,
RICHARD CARR,

DONA LOUA ANDERSON ADKINS,
SHALANNA R. ANDERSON,
SHELIA ELAINE ANDERSON,
NICOLERA E SUTTON,
CHERYL ANN TOMAN ANDERSON,
GRACE A. ANDERSON,
SHENNA A. ANDERSON,
TILLIS A. ADKINS,
MERCEDES GIBSON,
MARVIN LEE GIBSON, II,
NICHOLAS R. LONG,
LANDON L. LONG,
BISMILLAH RAHIM,
VICTOR LATRELL LONG,
VIVIAN LONG GAINES,
SAMAD LONG,
WAUNETTA B. ANDERSON,
LEONARD L. LONG,
STEVEN D. LONG,
MARY G. PRINCE LONG,
JUSTESA M. LONG JAMISON,
DENNIS M. LONG,
DEMETRIUS M. LONG,
ETHEL MAE ANDERSON LONG,
LEONARD L. LONG, JR.,
WAYNE L. LONG, JR.,
TERRY A. LONG,
TERRICA M. LONG,
NARDELL HAMILTON,
SAMINA N. LONG,
KENNETH L. LONG,
ERMA MARTHA PYATT ANDERSON,
CAROL ANN ANDERSON,
GARY ALLEN ANDERSON
CHARLESTON JACKSON,
GEORGE ALTON JACKSON,
RICHARD KEITH BROWN,
NICHOLAS R. LONG,
STEVEN RAY ANDERSON,
ANITA KAREN ANDERSON,
MILDRED R. ANDERSON,
JIMMIE JACKSON,
JOYCE M. JACKSON BROWN,
CHRISTOPHER BROWN,
KENNETH L. LONG, JR.,
JANET MARIE HERRMANN,
DALE GORDON ANDERSON,
ANN JACKSON,

ANDREW N. JACKSON, III,
JOHN BROWN, JR.,
MARCUS BROWN,
PATRICIA ELLISON,
RANDY BOYD,
LINDA BOYD,
JAMES BOBBS,
WILLIE MILLER,
KENNY MILLER,
DAVID L. MILLER,
WANNETTA RUSSELL,
TYRONE BOYD,
NORMA J. BOYD HILL,
WILLIE DAVID MILLER,
WILLIE MILLER, JR.,
CYNTHIA MILLER COTTON,
KELLI MILLER,
MICHAEL ANTHONY GLEN,
RONALD BOYD,
KIMBERLY BOYD BOBBS,
MICHAEL R. MILLER,
JOHNNY R. MILLER,
WILLETTE MILLER,
DIANA MILLER SIMPSON,
PHIL SIMPSON,
MARIA GARNETT,
GREGORY GARNETT,
WINNIFRED P. GARNETT,
MATTHEW GARNETT,
TAMMY GRAY,
EULA MAE GRANT,
KOSETTS L. GARNETT,
BRETT DUANE GARNETT, JR.,
LAWRENCE GARNETT,
ELDON EDWARD GARNETT,
HENRY A. JACKSON,
JULIE LOVE,
FREDDIE MAE PARKER WILLIAMS,
BRETT DUANNE GARNETT,
STEPHANIE R. GARNETT,
FLOYD E. "SKIP" GARNETT,
DEIRDRE SUZANNE GARNETT,
HENRY A. JACKSON, JR.,
TERESA PASKEL,
MELBA LOU PARKER JOSEPH,
JEANNE L. REDD,
SYLVIA VIOLA REDD SHELTON,
HAROLD RAY REDD,

RACHEL ULEASE REDD,
MICHAEL L. JOHNSON,
DEBRA ANN GENTRY,
PEARL A. PARKER,
LEROY REDD,
OLETHA IRENE REDD WALLACE,
TUSCON D. REDD,
RICHARD JOHNSON,
ALMETRA Y. JOHNSON WILLIAMS,
LARRY EUGENE GENTRY,
BETTY J. TUBBS FISHER,
JAMES HENRY REDD,
LENA RUTH REDD DAVIS,
TELLIA R. REDD,
JERRY LEE JOHNSON,
HAROLD E. GENTRY,
KENNETH L. PARKER,
KEITH TUBBS,
ELVIS L. TUBBS,
DORETHA TUBBS,
MARION TUBBS BEASY,
TOM LEE TUBBS, JR.,
AUGUSTA MAE TUBBS BEARD,
NILAR FAYE PARKER WILSON,
DOROTHY MAE PARKER REEVES,
LAURA ANN TUBBS,
WANDA TUBBS,
BUFORD N. TUBBS JR. III,
GERALDINE TUBBS GLOVER,
EVELYN JOANNE PARKER DILLARD,
OLEAMON A. WILSON,
PEARLENE V. PARKER STANFIELD,
CHERYL ANN TUBBS ROGERS,
LYLLIAN MARION TUBBS,
ETHEL LOUISE TUBBS TODD,
ELMER LEE TUBBS,
DONALD B. DILLARD,
GEORGE CHARLES PARKER,
JAMES WAYNE PARKER,
ROSETTA M. PARKER EALOM,
DEBRA LOUISE PARKER PROCTOR,
BOBBY FAYE CARTER WHITE,
J. BERNAND REDD, SR.,
JAMARCUS BUCHANAN,
CHARLES HOWARD REDD,
ALAN PARKER,
GARY MITCHELL PARKER,
EDITH CARTER,

FREDA WRIGHT REDD,
LEATHA BUCHANAN,
COURTNEY R. BUCHANAN,
CLIFFORD R. PARKER,
TEV CAULDWELL,
DAVID LEE PARKER,
SHARON RUTH CARTER STEELE,
JANICE REDD,
ADRIAN BUCHANAN,
RASHAWN BUCHANAN,
DENNIS PARKER,
EDGER N. TIPTON, JR.,
CHRISTIE A. CUE,
JAMES F. WALKER,
MARY L. HEROD,
HOMER BARR,
ANGELA WALKER,
JUANITA POLITE,
WILLIAM BARR,
JEFF KLEINDORFER,
UNKNOWN HEIRS OF ROBERT "ROBIN" MCCREARY,
UNKNOWN HEIRS OF MARY MASSEY MCCREARY,
UNKNOWN HEIRS OF PERSONS BURIED IN MCCREARY CEMETERY,
UNKNOWN HEIRS OF PERSONS BURIED IN FRANKLIN CEMETERY,
UNKNOWN HEIRS OF PERSONS BURIED IN UNKNOWN CEMETERY,
UNKNOWN HEIRS OF ROBERT BAILEY NO. 1,
UNKNOWN HEIRS OF PERSONS BURIED IN UNKNOWN NO. 10 CEMETERY,
UNKNOWN HEIRS OF MARY ABSTON NO. 1,
UNKNOWN HEIRS OF WILEY DOUGLAS,
UNKNOWN HEIRS OF MAND ODUM (ODOM),
UNKNOWN HEIRS OF MARY ABSTON NO. 2,
UNKNOWN HEIRS OF WILLIAM HENRY HARRIS,
UNKNOWN HEIRS OF LUCY PARKER,
UNKNOWN HEIRS OF MATTIE C. ABSTON,
UNKNOWN HEIRS OF JOHN B. HARRIS,
UNKNOWN HEIRS OF REBECCA PARKER,
UNKNOWN HEIRS OF DORA BABER,
UNKNOWN HEIRS OF OSCAR HARRIS,
UNKNOWN HEIRS OF WILLIAM ROBERT PAYNE,
UNKNOWN HEIRS OF SUSIE BAILEY,
UNKNOWN HEIRS OF EMMA HARRIS,
UNKNOWN HEIRS OF LAVENIA PAYNE,
UNKNOWN HEIRS OF ROBERT BAILEY NO. 2,
UNKNOWN HEIRS OF FLORANCE HEWSTEN,
UNKNOWN HEIRS OF MARTHA POLITE,
UNKNOWN HEIRS OF EMMER BROWN,
UNKNOWN HEIRS OF HENRY EDWARD HUDSON,
UNKNOWN HEIRS OF MARY POLITE,

UNKNOWN HEIRS OF BOBBIE DAZY BULLOCK,
UNKNOWN HEIRS OF JOSEPH HUDSON,
UNKNOWN HEIRS OF MARY RAINS,
UNKNOWN HEIRS OF EARL BULLOCK,
UNKNOWN HEIRS OF WILL HUDSON,
UNKNOWN HEIRS OF NANCY E. ROGAN,
UNKNOWN HEIRS OF SIMON BULLOCK,
UNKNOWN HEIRS OF EMMA HUDSON,
UNKNOWN HEIRS OF EMMA SANDERS,
UNKNOWN HEIRS OF MITCHELL BULLOCK,
UNKNOWN HEIRS OF ALBERT HUTSON (HUDSON),
UNKNOWN HEIRS OF CLARRIAH SANDERS,
UNKNOWN HEIRS OF ANNIE BUSH,
UNKNOWN HEIRS OF SWAIL JONES,
UNKNOWN HEIRS OF LOULER SMITH,
UNKNOWN HEIRS OF AMBROSE B. CLEAVLON,
UNKNOWN HEIRS OF MARGUERITE MORROW,
UNKNOWN HEIRS OF BILL WILLIAMS,
UNKNOWN HEIRS OF KATE BELL DOUGLASS,
UNKNOWN HEIRS OF ROBERT ODOM,
UNKNOWN HEIRS OF PERSONS BURIED IN ODOM/HUDSON CEMETERY,
UNKNOWN OWNERS,
Defendants.

FINAL JUDGMENT AND ORDER FOR DISBURSEMENT
AND RETENTION OF DEPOSITED FUNDS

The United States of America upon the relation and for the use of the Tennessee Valley Authority (“TVA”) initiated this federal condemnation action on March 23, 2021, to acquire a 0.005-acre cemetery (“McCreary Cemetery fee”) and cemetery, burial and access rights (collectively, “cemetery rights”) with respect to six cemeteries within the reservation boundary of TVA’s Gallatin Fossil Plant (GAF) in Sumner County, Tennessee (“Cemetery Tracts”), and for an order authorizing TVA to disinter the remains buried on the Cemetery Tracts and to reinter said remains at a suitable reinterment location(s). On March 23, 2021, TVA filed the Complaint (Doc. 1) in which TVA identified the individuals it believed have or may claim an ownership interest in the property rights acquired as to the Cemetery Tracts. Along with the Complaint, TVA filed a Declaration of Taking (Doc. 2) with legal descriptions of the property rights taken in this action (Doc. 2-1) and a Notice of Condemnation (Doc. 3). On July 13, 2021, TVA amended

the initial Complaint and Notice of Condemnation (Docs. 34, 35) to include additional three additional Defendants and to correct the names of two previously named Defendants.¹

On September 10, 2021, upon motion by TVA, the Court entered an Order (Doc. 45) authorizing TVA to disinter the remains buried on the Cemetery Tracts and to reinter said remains at a suitable reinterment location(s). *See United States ex rel. TVA v. 0.005 Acre of Land in Sumner Cty., Tenn.*, No. 3:1-cv-00249, 2021 WL 4261241, at *2 (M.D. Tenn. Sept. 10, 2021) (“*0.005 Acre of Land I*”).

On January 12, 2022, TVA filed its Motion for Partial Summary Judgment on Issue of Compensation (Docs. 49, 50), seeking an order awarding total compensation of \$40,000 for the McCreary Cemetery fee and awarding no compensation for the cemetery rights because the fair market value of the replacement cemetery rights at a suitable reinterment location(s) is equal or greater to the fair market value of the existing cemetery rights. On February 14, 2022, the Court entered a Memorandum Opinion and Order (Doc. 52) granting TVA’s Motion for Partial Summary Judgment. *See United States ex rel. TVA v. 0.005 Acre of Land in Sumner Cty., Tenn.*, No. 3:1-cv-00249, 2022 WL 446014 (M.D. Tenn. Feb. 14, 2022) (“*0.005 Acre of Land II*”). The Court found that \$40,000 was just compensation for the McCreary Cemetery fee and that no compensation was awarded for the cemetery rights. *See 0.005 Acre of Land II*, 2022 WL 446014, at *3. The Court also ordered TVA to file a declaration which sets forth TVA’s position as to the allocation of the compensation owed for the McCreary Cemetery fee. *Id.* at *4. *See* Fed. R. Civ. P. 71.1(j)(2) (“After a deposit, the court and attorneys must expedite the proceedings so as to distribute the deposit and to determine and pay compensation.”).

¹ There was no change or amendment to the property rights condemned and/or the legal descriptions of the Cemetery Tracts and therefore TVA did not file an amended Declaration of Taking.

On February 22, 2022, TVA filed the Declaration of Lorie M. Hunt (Doc. 54) (“Hunt Declaration”) with TVA’s position on the allocation of the compensation award for the McCreary Cemetery fee based on TVA’s diligent review of deeds, other recorded instruments, and historical and genealogical research in the Wood Genealogical Report (“Wood Report”). (*Id.* at ¶¶ 2–4; Doc. 54-1 through Doc. 54-3.) The Hunt Declaration contains TVA’s position regarding the identity of the individuals who claim or may claim an interest in the McCreary Cemetery fee. (Doc. 54 at ¶ 5.) Attachment 4 to the Hunt Declaration lists TVA’s estimated fractional interest for each individual identified by TVA as holding a fractional interest for purposes of distribution of compensation. (Doc. 54-4.) Attachment 5 to the Hunt Declaration contains the mathematical apportionment of the compensation award based on the estimated fractional interest of each person. (Doc. 54-5.) The Hunt Declaration states that due to the volume of descendants initially identified in the Wood Report (Doc. 54-3) who have or may claim an interest in the McCreary Cemetery fee, all individuals noted in the Wood Report as “living” (whether related by blood or marriage and regardless of level of lineage) were named as Defendants in this action. (Doc. 54 at ¶ 5(k).) For purposes of determining fractional interest and distribution of compensation, however, Defendants who are issue (children) of descendants listed as “living” in the Wood Report were not listed in Attachment 4 to the Hunt Declaration as individuals entitled to a fractional interest (*see* Doc. 54-4) for purposes of distribution of the compensation award because their interest has not yet vested. (Doc. 54 at ¶ 5(k).)

No Defendant filed an objection to the Hunt Declaration or provided information contesting the same. (*See* Docket.)

In recognition that the remaining issues of ownership and apportionment in this case are reserved for the court’s disposition, the Court issued two Orders (Docs. 53, 57) establishing the procedure for disbursement of the compensation award and directing any person claiming an

interest in the McCreary Cemetery fee and desiring to seek compensation to file a written request with the Clerk of Court postmarked by April 18, 2022. The following individuals filed a Notice of Claim: Debby Derryberry (Doc. 59); Jean W. Blunkall (Doc. 60);² Angela Welker Smith (Doc. 61) and Michael Baldwin (Doc. 62).

Claimant Debby Derryberry claims an ownership interest in the McCreary Cemetery fee. (Doc. 59.) Attachment 4 to the Hunt Declaration identifies Ms. Derryberry as having a fractional interest in the McCreary Cemetery fee (Doc. 54-4 at PageID#1050) and Attachment 5 to the Hunt Declaration identifies the mathematical apportionment of the compensation award to Ms. Derryberry based on her estimated fractional interest (Doc. 54-5 at PageID#1052).

Claimant Jean W. Blunkall claims an ownership interest in the McCreary Cemetery fee. (Doc. 60.) Attachment 4 to the Hunt Declaration identifies Ms. Blunkall as having a fractional interest in the McCreary Cemetery fee (Doc. 54-4 at PageID#1050) and Attachment 5 to the Hunt Declaration identifies the mathematical apportionment of the compensation award to Ms. Blunkall based on her estimated fractional interest (Doc. 54-5 at PageID#1052).

Claimant Angela Welker Smith claims an ownership interest in the McCreary Cemetery fee. (Doc. 61.) Ms. Welker Smith states in her notice that she is the daughter of Joseph H. Welker and the family tree graphic submitted with Ms. Welker Smith's notice indicates that Joseph H. Welker is "living." (*Id.* at PageID#1097–98.) The Wood Report lists Joseph H. Welker as "living" (Doc. 54-3 at PageID#963) and the Hunt Declaration lists Joseph H. Welker as having a fractional interest to and in the McCreary Cemetery fee (Doc. 54-4 at PageID#1049).

Claimant Michael Baldwin claims an ownership interest in the McCreary Cemetery fee. (Doc. 62.) Mr. Baldwin states in his notice that he is the son of Emma Welker-Morris. (*Id.* at PageID#1101.) The Wood Report lists Emma Welker-Morris as "living" (Doc. 54-3 at

² Jean W. Blunkhall is the married name of Edna Jean Womack.

PageID#963) and the Hunt Declaration lists Emma Welker-Morris as having a fractional interest to and in the McCreary Cemetery fee (Doc. 54-4 at PageID#1049).

“In an action involving eminent domain under federal law, the court tries all issues, including compensation, except when a party demands a jury trial within the time to answer.” *U.S. ex rel. Tennessee Valley Authority v. An Easement and Right-of-Way over 0.03 Acre of Land in Oktibbeha Cty., Miss.*, No. 1:17-cv-00152-GHD-DAS, 2019 WL 267881, at *1 (N.D. Miss. Jan. 18, 2019) (quoting Fed. R. Civ. P. 71(h)). Accordingly, based on the information submitted in the Hunt Declaration and supporting attachments (Doc. 54, Doc. 54-1 through Doc. 54-5), the information contained in the Notice of Claims (Docs. 59, 60, 61, 62), and the applicable authority, the Court **FINDS** that the ownership interests of the McCreary Cemetery fee acquired by TVA in this case and the apportionment/monetary value that should be assigned and disbursed based on the ownership interests are as outlined in Attachment 1 hereto.³

Based on these findings, the Court hereby **ORDERS** and **ADJUDGES** that:

1. The total amount of compensation available for disbursement is \$40,000.
2. The ownership interests of the McCreary Cemetery fee and the apportionment and allocation of the total amount of compensation available for disbursement are as set forth in Attachment 1 hereto.
3. The Clerk of this Court is authorized and directed to draw checks on the funds on deposit in the registry of this Court made payable to the following two Defendants.⁴

³ Attachment 1 contains a listing of the mathematical apportionment of the total compensation award to each person with an ownership interest in the McCreary Cemetery fee based on the estimated fractional interest of each such person. The list in Attachment 1 is identical to the list in Attachment 5 to the Hunt Declaration (Doc. 54-5).

⁴ The Court has reviewed the Notice of Claims filed by Claimant Angela Welker Smith (Doc. 61) and Claimant Michael Baldwin (Doc. 62) and finds that based on the information submitted with these Notice of Claims and the Hunt Declaration (Doc. 54), to which no objection was filed, these Defendants are issue (children) of descendants listed as “living” in the Wood

(a) A check in the amount of \$126.98, plus any accrued interest thereon less the applicable registry fee, made payable to “Debby Derryberry” in full satisfaction of this Judgment and Order Disbursing Funds (Judgment), and to mail said check to Debby Derryberry, 1131 Bledsoe Drive, Castalian Springs, Tennessee 37031, in full satisfaction of this Judgment.

(b) A check in the amount of \$126.98, plus any accrued interest thereon less the applicable registry fee, made payable to “Jean W. Blunkall” in full satisfaction of this Judgment and Order Disbursing Funds (Judgment), and to mail said check to Jean W. Blunkall, 420 Rock Springs Road, PO Box 416, Castalian Springs, Tennessee 37031, in full satisfaction of this Judgment.

4. To the extent that persons listed in Attachment 1 have not filed a notice of claim and/or are unknown, the Clerk of Court shall keep the remaining funds in an interest-bearing account and shall assess the administrative registry fee authorized by the Judicial Conference of the United States. Any person who subsequently files a notice of claim as to the remaining funds shall file a petition on the docket in this case, and the Court will make a determination as to the validity of any such claim and direct the Clerk of Court to make further disbursements from the remaining funds on deposit. Under 28 U.S.C. § 2042, such funds will be available in the Court’s Registry for at least five years. Any funds that remain unclaimed after such time will be deposited with the United States Treasury in the name and to the credit of the United States. After that, “[a]ny claimant entitled to any such money may, on petition to the court and upon notice to the United States attorney and full proof of the right thereto, obtain an order directing payment to him.” 28 U.S.C. § 2042.

Report (Doc. 54-3 at PageID##963–64), and therefore are not entitled to a fractional interest (*see* Doc. 54-4) for purposes of distribution of the compensation award because their interests have not yet vested.

5. The Clerk of Court shall also return to TVA all interest accrued while the funds have been on deposit. 40 U.S.C. § 3114(c)(1).

6. The vesting of title in the United States of America, free of all liens, claims, and encumbrances, as evidenced by the Declaration of Taking filed in this action on March 23, 2021 (Doc. 2), is hereby fully and finally confirmed with respect to the property rights described below, said description being the same as in Attachment 1 to the Declaration of Taking (Doc. 2-1):

MCCREARY CEMETERY

An estate in fee simple in the following described land:

TRACT NO. GSP-23

McCreary Cemetery (excepted out of Tract No. GSP-10)

A tract of land lying in the Third Civil District of Sumner County, State of Tennessee, on the right bank of the Cumberland River, approximately 4-1/2 miles southeast of Gallatin, and located within the boundaries of Tract No. GSP-10, more particularly described as follows:

Beginning at the southwest corner of the cemetery tract from which the point in the center line of a county road and in the prolongation of a fence line at a common corner of the lands of the H. A. Schell Heirs, Jene W. Carmichael, and the Tom Franklin Heirs bears approximately S. 18° W., at a distance of approximately 300 feet; thence with the boundary line between the McCreary Cemetery tract and the land of the H. A. Schell Heirs N. 11° 53' E., 12 feet to a point; thence S. 78° 07' E., 17 feet to a point; thence S. 1° 53' W., 12 feet to a point; thence N. 78° 07' W., 17 feet to the Point of Beginning.

The land as described above contains 0.005 net acre, more or less.

The directions of lines are referred to the Tennessee Coordinate System.

All outstanding rights as may be vested in third parties to rights of access to and from the McCreary Cemetery with respect to the following-described land:

TRACT NO. GSP-10-CE

A tract of land lying in the Third Civil District of Sumner County, State of Tennessee, on the right bank of the Cumberland River, approximately 4-1/2 miles southeast of Gallatin, and more particularly described as follows:

Beginning at a point in the center line of a county road and in the prolongation of a fence line, a corner of the lands of Jene W. Carmichael and the Tom Franklin Heirs; thence with the Tom Franklin Heirs' line and a fence line N. 83° W., 405 feet to a fence corner; thence N. 8° E., 375 feet to a fence corner, a corner of the lands of the Tom Franklin Heirs and Elwood B. Bruce, et ux.; thence with Elwood B. Bruce, et ux.'s line N. 8° E., 205 feet to a point in a fence line; thence with the fence line S. 82° E., 2,400 feet to a point in the mean low water line of the Cumberland River; thence with the mean low water line of the river as it meanders downstream approximately 535 feet to a point in the prolongation of a fence line, a corner to the land of Jene W. Carmichael; thence with Jene W. Carmichael's line and the fence line N. 83° 30' W., 1,995 feet to the Point of Beginning. Except therefrom 0.005 acre, more or less, for the McCreary Cemetery tract located within the boundaries of the above described land, the said 0.005 acre being more particularly described as follows: Beginning at the southwest corner of the cemetery tract from which the point in the center line of a county road and in the prolongation of a fence line at a common corner of the lands of the H. A. Schell Heirs, Jene W. Carmichael, and the Tom Franklin Heirs bears approximately S. 18° W., at a distance of approximately 300 feet; thence with the boundary line between the McCreary Cemetery tract and the land of the H. A. Schell Heirs N. 11° 53' E., 12 feet to a point; thence S. 78° 07' E., 17 feet to a point; thence S. 11° 53' W., 12 feet to a point; thence N. 78° 07' W., 17 feet to the Point of Beginning for the exception.

The land as above-described contains 30.8 net acres, more or less.

The directions of lines are referred to the Tennessee Coordinate System.

FRANKLIN CEMETERY

All outstanding rights in a cemetery with respect to the following-described land:

TRACT NO. GSP-11-CE

A tract of land lying in the Third Civil District of Sumner County, State of Tennessee, on the right side of the Cumberland River, approximately 4-1/2 miles southeast of Gallatin, and more particularly described as follows:

Beginning at a point in the center of a road junction, a corner of the lands of Jene W. Carmichael and Silas Sweat; thence with Silas Sweat's line approximately along the center line of a road N. 82° W., 805 feet to a point in the prolongation of a fence line, a corner of the lands of Silas Sweat's and the H. A. Schell Heirs; thence with the H. A. Schell Heirs' line and the fence line N. 8° E., 675 feet to a fence intersection, a corner of the lands of the H. A. Schell Heirs and Elwood B. Bruce, et ux.; thence with Elwood B. Bruce, et ux.'s line and a fence line S. 82° E., 390 feet to a fence corner, a corner of the lands of Elwood B. Bruce, et ux., and the H. A. Schell Heirs; thence with the H. A. Schell Heirs' line and a fence line S. 8° W., 375 feet to a fence corner; thence S. 83° E., 405 feet to a point in the center line of a county road, a corner of the lands of the H. A. Schell

Heirs and Jene W. Carmichael; thence with Jene W. Carmichael's line and the center line of the county road in a southerly direction approximately 315 feet to the Point of Beginning, and containing 9 acres, more or less.

The directions of lines are referred to the Tennessee Coordinate System.

UNKNOWN CEMETERY

All outstanding rights as may be vested in third parties to a cemetery, known as the Unknown Cemetery, with respect to the following-described land:

TRACT NO. GSP-13-CE

A tract of land lying in the Third Civil District of Sumner County, State of Tennessee, on the right side of the Cumberland River, approximately 4-3/4 miles southeast of Gallatin, and more particularly described as follows:

Beginning at a point in the center line of a road and in the prolongation of a fence line, a corner of the lands of Jene W. Carmichael and Summie Cocke, et al.; thence with Summie Cocke, et al.'s line and the fence line N. 84° W., 425 feet to a point, a corner of the lands of Summie Cocke, et al., and Silas Sweat; thence with Silas Sweat's line, leaving the fence line, N. 8° E., 216 feet to a point in a fence line; thence with the fence line S. 84° E., 425 feet to a point in the center line of a road, a corner of the lands of Silas Sweat and Jene W. Carmichael; thence with Jene W. Carmichael's line and the center line of the road in a southerly direction approximately 215 feet to the Point of Beginning, and containing 2 acres, more or less.

The directions of lines are referred to the Tennessee Coordinate System.

BAILEY CEMETERY

The outstanding right of access to a grave of an unknown person, known as the Bailey Cemetery, with respect to the following-described land:

TRACT NO. GSP-17-CE

A tract of land lying in the Third Civil District of Sumner County, State of Tennessee, on the right side of the Cumberland River, approximately 4 miles southeast of Gallatin, and more particularly described as follows:

Beginning at a point in the center line of a county road and in the prolongation of a fence line, a corner of the lands of Sam N. Schell, et ux., and Elwood B. Bruce, et ux.; thence with Elwood B. Bruce, et ux.'s line and the fence line N. 86° W., 400 feet to a fence intersection, a corner of the lands of Elwood B. Bruce, et ux., and Nelson Alexander, et ux.; thence with Nelson Alexander, et ux.'s line and a fence line N. 7° 30' E. 495 feet to a point; thence N. 80° E., 25 feet to a point in the center line of a county road, a corner of the lands of Nelson Alexander, et ux.,

and Sam N. Schell, et ux.; thence with Sam N. Schell, et ux.'s line and the center line of the county road as it meanders in a southeasterly direction approximately 640 feet to the Point of Beginning, and containing 1.6 acres, more or less.

The directions of lines are referred to the Tennessee Coordinate System.

UNKNOWN NO. 10 CEMETERY

All outstanding burial rights in existing graves and access thereto with respect to the following-described land:

TRACT NO. GSP-18-CE

A tract of land lying in the Third Civil District of Sumner County, State of Tennessee, on the right side of the Cumberland River, approximately 4 miles southeast of Gallatin, and more particularly described as follows:

Beginning at a point in the center line of a county road, a corner of the lands of Nelson Alexander, et ux., and the Joe Hudson Heirs and the most northwesterly corner of the tract herein described; thence with the Joe Hudson Heirs' line S. 84° 30' E., 565 feet to a point in a fence line; thence with a fence line S. 8° W., 130 feet to a fence corner; thence S. 79° 30' E., 415 feet to a fence intersection, a corner of the lands of the Joe Hudson Heirs and Virgil & Luther Merritt; thence with Virgil & Luther Merritt's line and a fence line S. 8° W., 240 feet to a fence intersection, a corner of the lands of Virgil & Luther Merritt and Elwood B. Bruce, et ux.; thence with Elwood B. Bruce, et ux.'s line and a fence line S. 8° W., 165 feet to a fence corner; thence S. 67° W., 390 feet to a point in the center line of a county road; thence with Elwood B. Bruce, et ux.'s, J. T. Bruce's, and Nelson Alexander, et ux.'s lines and the center line of the road as it meanders in a northwesterly direction approximately 1,020 feet to the Point of Beginning, and containing 10.6 acres, more or less.

The directions of lines are referred to the Tennessee Coordinate System.

ODOM/HUDSON CEMETERY

All outstanding rights as may be vested in third parties to a cemetery with respect to the following-described land:

TRACT NO. GSP-19-CE

A tract of land lying in the Third Civil District of Sumner County, State of Tennessee, on the right side of the Cumberland River, approximately 4 miles southeast of Gallatin, and more particularly described as follows:

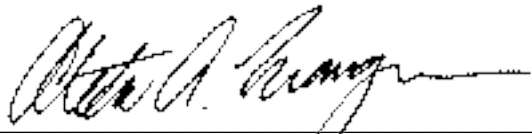
Beginning at a point in the center line of a county road and in the prolongation of a fence line, a corner of the lands of Nelson Alexander, et ux., and Elmira Mills, et al.; thence with Elmira Mills, et al.'s line and a fence line S. 82° E., 1,160 feet

to a fence intersection, a corner of the lands of Elmira Mills, et al., and Virgil & Luther Merritt; thence with Virgil & Luther Merritt's line and a fence line S. 8° W., 590 feet to a fence intersection, a corner of the lands of Virgil & Luther Merritt and Sam N. Schell, et ux.; thence with Sam N. Schell, et ux.'s line and a fence line N. 79° 30' W., 415 feet to a fence corner; thence N. 8° E., 130 feet to a point; thence, leaving the fence line, N. 84° 30' W., 565 feet to a point in the center line of a county road, a corner of the lands of Sam N. Schell, et ux. and Nelson Alexander, et ux.; thence with Nelson Alexander, et ux.'s line and the center line of the road in a northerly direction approximately 500 feet to the Point of Beginning, and containing 12.2 acres, more or less.

The directions of lines are referred to the Tennessee Coordinate System.

7. The Clerk of this Court shall furnish to Plaintiff a certified copy of this Judgment which shall serve as a muniment of title.

It is so ORDERED.


UNITED STATES DISTRICT JUDGE

Submitted for entry by:

s/Lane E. McCarty

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